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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,595	11/01/2001	Motasim Sirhan	020460-001600US	4760

20350 7590 03/04/2005

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EXAMINER

PHAN, HIEU

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 03/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/002,595	Applicant(s) SIRHAN ET AL.	
	Examiner Hieu Phan	Art Unit 3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-273 is/are pending in the application.
- 4a) Of the above claim(s) 4-73, 103-107, 109, 111, 113-115, 120, 121, 123, 124, 128, 129, 131-149, 159-169, 171-175, 180-197, 199-225, 227, 228, 230-235, 237-240, 242-243 and 254-271 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3 is/are allowed.
- 6) ☒ Claim(s) 74-89, 95-100, 150-158, 236, 241, 244-253 and 273 is/are rejected.
- 7) ☒ Claim(s) 90-94, 112, 118, 119, 122, 125-127, 130, 170, 176-179, 198, 226, 229 and 272 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date
<u>11/26/04, 04/12/04, 10/28/03, 06/23/03, 04/25/03</u> | 6) <input type="checkbox"/> Other: ____ |

Response to Election/Restriction

1. Applicant's election of Group I, Specie 4, claims 1-3, 74-102, 108, 110, 112, 116-119, 122, 125-127, 130, 150-158, 170, 176-179, 198, 226, 229, 236, 241, 244-253, 272 and 273, in Paper No. 12/06/2004 is acknowledged. Non-elected claims 4-73, 103-107, 109, 111, 113-115, 120, 121, 123, 124, 128, 129, 131-149, 159-169, 171-175, 180-197, 199-225, 227, 228, 230-235, 237-240, 242-243 and 254-271 have been withdrawn from consideration. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Objections

2. Claims 90-94, 112, 118, 119, 122, 125-127, 130, 170, 176-179, 198, 226, 229 and 272 objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 90-94, 112, 118, 119, 122, 125-127, 130, 170, 176-179, 198, 226, 229 and 272 have not been further treated on the merits.

3.

Allowable Subject Matter

4. Claims 1-3 are allowed.

5. Claims 108 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 74-89, 95-100, 150-158, 236, 241, 244-253 and 273 rejected under 35 U.S.C. 102(b) as being anticipated by Ragheb et al. (U.S. Patent 5,873,904).

Ragheb et al. disclosed a stent (12) having therapeutic agent layers (18,22), rate limiting layers (20,24) as is claimed (figures 1-5 and 7-12, column 8 lines 27-37, column 9 lines 26-51, column lines 27-67, column 11 lines 1-62 and column 14 lines 18-67).

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hieu Phan whose telephone number is 571-272-4757. The examiner can normally be reached on Monday-Friday from 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hieu Phan
Examiner
Art Unit 3738



CORRINE McDERMOTT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700